

FILED IN THE U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAN 24 2025

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DEPUTY
YAKIMA, WASHINGTON

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Case No.: 1:23-CR-2068-MKD

Plaintiff,

Plea Agreement

v.

DAMIAN INIGUEZ,

Defendant.

Plaintiff United States of America, by and through Vanessa R. Waldref, United States Attorney the Eastern District of Washington, and Benjamin D. Seal, Assistant United States Attorney for the Eastern District of Washington, and Defendant DAMIAN INIGUEZ (“Defendant”), both individually and by and through Defendant’s counsel, Kenneth D. Therrien, agree to the following Plea Agreement.

1. Guilty Plea and Maximum Statutory Penalties

Defendant agrees to enter a plea of guilty to the Indictment filed on December 12, 2023, which charges Defendant with being a Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8), a Class C felony.

Defendant understands that the following potential penalties apply:

- a. a term of imprisonment of not more than 15 years;
- b. a term of supervised release of not more than 3 years;

- c. a fine of up to \$250,000; and
- d. a \$100 special penalty assessment.

2. Supervised Release

Defendant understands that if Defendant violates any condition of Defendant's supervised release, the Court may revoke Defendant's term of supervised release, and require Defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, up to the following terms:

- a. 5 years in prison if the offense that resulted in the term of Supervised Release is a class A felony,
- b. 3 years in prison if the offense that resulted in the term of Supervised Release is a class B felony, and/or
- c. 2 years in prison if the offense that resulted in the term of Supervised Release is a class C felony.

Accordingly, Defendant understands that if Defendant commits one or more violations of supervised release, Defendant could serve a total term of incarceration greater than the maximum sentence authorized by statute for Defendant's offense or offenses of conviction.

3. The Court is Not a Party to this Plea Agreement

The Court is not a party to this Plea Agreement and may accept or reject it. Defendant acknowledges that no promises of any type have been made to Defendant with respect to the sentence the Court will impose in this matter.

Defendant understands the following:

- a. sentencing is a matter solely within the discretion of the Court;
- b. the Court is under no obligation to accept any recommendations made by the United States or Defendant;

- c. the Court will obtain an independent report and sentencing recommendation from the United States Probation Office;
- d. the Court may exercise its discretion to impose any sentence it deems appropriate, up to the statutory maximum penalties;
- e. the Court is required to consider the applicable range set forth in the United States Sentencing Guidelines, but may depart upward or downward under certain circumstances; and
- f. the Court may reject recommendations made by the United States or Defendant, and that will not be a basis for Defendant to withdraw from this Plea Agreement or Defendant's guilty plea.

4. Potential Immigration Consequences of Guilty Plea

If Defendant is not a citizen of the United States, Defendant understands the following:

- a. pleading guilty in this case may have immigration consequences;
- b. a broad range of federal crimes may result in Defendant's removal from the United States, including the offense to which Defendant is pleading guilty;
- c. removal from the United States and other immigration consequences are the subject of separate proceedings; and
- d. no one, including Defendant's attorney or the Court, can predict with absolute certainty the effect of a federal conviction on Defendant's immigration status.

Defendant affirms that Defendant is knowingly, intelligently, and voluntarily pleading guilty as set forth in this Plea Agreement, regardless of any immigration consequences that Defendant's guilty plea may entail.

1 5. Waiver of Constitutional Rights

2 Defendant understands that by entering this guilty plea, Defendant is
3 knowingly and voluntarily waiving certain constitutional rights, including the
4 following:

- 5 a. the right to a jury trial;
6 b. the right to see, hear and question the witnesses;
7 c. the right to remain silent at trial;
8 d. the right to testify at trial; and
9 e. the right to compel witnesses to testify.

10 While Defendant is waiving certain constitutional rights, Defendant
11 understands that Defendant retains the right to be assisted by an attorney through
12 the sentencing proceedings in this case and any direct appeal of Defendant's
13 conviction and sentence, and that an attorney will be appointed at no cost if
14 Defendant cannot afford to hire an attorney.

15 Defendant understands and agrees that any defense motions currently
16 pending before the Court are mooted by this Plea Agreement, and Defendant
17 expressly waives Defendant's right to bring any additional pretrial motions.

18 6. Elements of the Offense

19 The United States and Defendant agree that in order to convict Defendant of
20 being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1),
21 924(a)(8), the United States would have to prove the following beyond a
22 reasonable doubt.

- 23 a. *First*, on or about September 8, 2023, in the Eastern District of
24 Washington, Defendant knowingly possessed a Glock 22 Gen
25 4, .40 caliber semi-automatic pistol bearing serial number
26 YDM037;
27
28

- 1 b. *Second*, the Glock 22 Gen 4, .40 caliber semi-automatic pistol
2 bearing serial number YDM037 had been transported in
3 interstate or foreign commerce;
4 c. *Third*, at the time the Defendant possessed the Glock 22 Gen 4,
5 .40 caliber semi-automatic pistol bearing serial number
6 YDM037, the defendant had been convicted of a crime
7 punishable by imprisonment exceeding one year; and,
8 d. *Fourth*, at the time the Defendant received the Glock 22 Gen 4,
9 .40 caliber semi-automatic pistol bearing serial number
10 YDM037, the defendant knew he had been convicted of a crime
11 punishable by imprisonment exceeding one year.

12 7. Factual Basis and Statement of Facts

13 The United States and Defendant stipulate and agree to the following: the
14 facts set forth below are accurate; the United States could prove these facts beyond
15 a reasonable doubt at trial; and these facts constitute an adequate factual basis for
16 Defendant's guilty plea.

17 The United States and Defendant agree that this statement of facts does not
18 preclude either party from presenting and arguing, for sentencing purposes,
19 additional facts that are relevant to the Sentencing Guidelines computation or
20 sentencing.

21 On September 8, 2023, within the Eastern District of Washington, a Zillah
22 Police Department officer was on routine patrol when he observed a suspicious
23 vehicle parked at the gas station at the 900 block of Vintage Valley Parkway. The
24 vehicle had been at the location for approximately two hours, and it was parked
25 next to a gas pump closest to the building. The officer observed the vehicle
26 appeared to be running and the gas station had been closed for several hours.

27 When the officer approached the vehicle, Defendant was slumped over in
28 the driver's seat. The vehicle's gear shift was in "drive" and Defendant's foot

1 appeared to be pressed against the brake pedal. Law enforcement called for
2 backup and in the meantime, Defendant woke up. He was advised to put the
3 vehicle in park and turn the car off. Defendant was repeatedly uncompliant with
4 the commands of law enforcement.

5 The officer removed Defendant from the vehicle and placed him under
6 arrest. During a pat down the officer located a firearm in Defendant's front
7 sweatshirt pocket. The firearm was a loaded Glock 22 Gen 4, .40 caliber semi-
8 automatic pistol bearing serial number YDM037 with an extended magazine.
9 Further investigation showed the firearm had been stolen from Oregon in 2021.

10 The pistol was manufactured in Austria and had travelled in interstate and
11 foreign commerce.

12 Defendant stipulates and agrees that prior to September 8, 2023, he had been
13 convicted of a crime punishable by imprisonment for over a year, and that he knew
14 he had been convicted of a crime punishable by imprisonment for over a year.

15 8. The United States' Agreements

16 The United States Attorney's Office for the Eastern District of Washington
17 agrees not to bring additional charges against Defendant based on information in
18 its possession at the time of this Plea Agreement that arise from conduct that is
19 either charged in the Indictment or identified in discovery produced in this case,
20 unless Defendant breaches this Plea Agreement before sentencing.

21 9. United States Sentencing Guidelines Calculations

22 Defendant understands and acknowledges that the United States Sentencing
23 Guidelines ("U.S.S.G." or "Guidelines") apply and that the Court will determine
24 Defendant's advisory range at the time of sentencing, pursuant to the Guidelines.
25 The United States and Defendant agree to the following Guidelines calculations.

26 a. Base Offense Level

27 The United States and the Defendant make no agreement regarding the base
28 offense level.

b. Special Offense Characteristics

The United States and the Defendant agree that the offense level is increased by 2 levels because Defendant possessed a stolen firearm. U.S.S.G. § 2K2.1(b)(4)(A).

c. Acceptance of Responsibility

The United States will recommend that Defendant receive a downward adjustment for acceptance of responsibility, pursuant to U.S.S.G. § 3E1.1(a), (b), if Defendant does the following:

- i. accepts this Plea Agreement;
- ii. enters a guilty plea at the first Court hearing that takes place after the United States offers this Plea Agreement;
- iii. demonstrates recognition and affirmative acceptance of Defendant's personal responsibility for Defendant's criminal conduct;
- iv. provides complete and accurate information during the sentencing process; and
- v. does not commit any obstructive conduct.

The United States and Defendant agree that at its option and on written notice to Defendant, the United States may elect not to recommend a reduction for acceptance of responsibility if, prior to the imposition of sentence, Defendant is charged with, or convicted of, any criminal offense, or if Defendant tests positive for any controlled substance.

d. Agreements Regarding Representations to the Court

The United States has a duty of candor to the tribunal. If the United States and Defendant do not agree on the appropriate length of incarceration, the appropriate length or applicable terms of supervised release, and/or the correct guidelines calculations, variances, departures, and/or enhancements, the United States reserves the right to respond to any and all arguments made by Defendant,

1 on any bases the United States deems appropriate, at all stages of this criminal
2 case.

3 Defendant may make any arguments it deems appropriate, at all stages of
4 this criminal case.

5 With regard to all briefing, submissions, and hearings in this criminal case,
6 the United States and Defendant agree to the following provisions:

- 7 i. The United States and Defendant may each respond to
8 any questions from the Court or United States Probation
9 Office;
- 10 ii. The United States and Defendant may each supplement
11 the facts under consideration by the Court by providing
12 information the United States or Defendant deems
13 relevant;
- 14 iii. The United States and Defendant may each present and
15 argue any additional facts that the United States or
16 Defendant believe are relevant to the Sentencing
17 Guidelines computation or sentencing;
- 18 iv. The United States and Defendant may each present and
19 argue information that may already be known to the
20 Court, including information contained in the
21 Presentence Investigation Report;
- 22 v. The United States and Defendant may each respond to
23 any arguments presented by the other;
- 24 vi. In order to support the United States' sentencing
25 recommendation as set forth herein, the United States
26 may oppose and argue against any defense argument or
27 any recommendation for any sentence lower than the
28 sentence recommended by the United States on any basis,

1 including arguments for a lower offense level, a lower
2 criminal history calculation, the application or non-
3 application of any sentencing enhancement or departure,
4 and/or any variance from the Guidelines range as
5 calculated by the Court;

6 vii. In order to support the defense sentencing
7 recommendation as set forth herein, Defendant may
8 oppose and argue against any argument by the United
9 States, or any recommendation for any sentence higher
10 than the sentence recommended by the defense on any
11 basis, including arguments for a higher offense level, a
12 higher criminal history calculation, the application or
13 non-application of any sentencing enhancement or
14 departure, and/or any variance from the Guidelines range
15 as calculated by the Court;

16 viii. The United States may make any sentencing arguments
17 the United States deems appropriate so long as they are
18 consistent with this Plea Agreement, including arguments
19 arising from Defendant's uncharged conduct, conduct set
20 forth in charges that will be dismissed pursuant to this
21 Plea Agreement, and Defendant's relevant conduct; and

22 ix. Defendant may make any sentencing arguments
23 consistent with this Plea Agreement Defendant deems
24 appropriate.

25 e. No Other Agreements

26 The United States and Defendant have no other agreements regarding the
27 Guidelines or the application of any Guidelines enhancements, departures, or
28 variances.

1 f. Criminal History

2 The United States and Defendant have no agreement and make no
3 representations about Defendant's criminal history category, which will be
4 determined by the Court after the United States Probation Office prepares and
5 discloses a Presentence Investigative Report.

6 10. Incarceration

7 At the time of Defendant's original sentencing in the District Court, the
8 United States agrees to make a sentencing recommendation to the Court that is
9 consistent with this Plea Agreement. The United States' agreement to make such a
10 recommendation is limited exclusively to the time of Defendant's original
11 sentencing in the District Court. The United States' agreement to make such a
12 recommendation does not prohibit or limit in any way the United States' ability to
13 argue for or against any future sentencing modification that takes place after
14 Defendant's original sentencing in the District Court, whether that modification
15 consists of an amendment to the Guidelines, a change to a statutory minimum or
16 maximum sentence, any form of compassionate release, any violation of
17 Supervised Release, or any other modification that is known or unknown to the
18 parties at the time of Defendant's original criminal sentencing. In this Plea
19 Agreement, the United States makes no promises or representations about what
20 positions the United States will take or recommendations the United States will
21 make in any proceeding that occurs after Defendant's original sentencing in the
22 District Court.

23 The United States agrees to recommend a sentence of 57 months.

24 Defendant may recommend any legal sentence.

25 11. Supervised Release

26 The United States and Defendant each agree to recommend 3 years of
27 supervised release. Defendant agrees that the Court's decision regarding the
28 conditions of Defendant's Supervised Release is final and non-appealable; that is,

1 even if Defendant is unhappy with the conditions of Supervised Release ordered by
2 the Court, that will not be a basis for Defendant to withdraw Defendant's guilty
3 plea, withdraw from this Plea Agreement, or appeal Defendant's conviction,
4 sentence, or any term of Supervised Release.

5 The United States and Defendant agree to recommend that in addition to the
6 standard conditions of supervised release imposed in all cases in this District, the
7 Court should also impose the following conditions:

- 8 a. The United States Probation Officer may conduct, upon
9 reasonable suspicion, and with or without notice, a search of
10 Defendant's person, residences, offices, vehicles, belongings,
11 and areas under Defendant's exclusive or joint control.
- 12 b. Defendant shall participate and complete such drug testing and
13 drug treatment programs as the Probation Officer directs.
- 14 c. Defendant shall complete mental health evaluations and
15 treatment, including taking medications prescribed by the
16 treatment provider. Defendant shall allow reciprocal release of
17 information between the Probation Officer and the treatment
18 provider. Defendant shall contribute to the cost of treatment
19 according to the Defendant's ability.

20 12. Criminal Fine

21 The United States and Defendant may make any recommendation
22 concerning the imposition of a criminal fine. Defendant acknowledges that the
23 Court's decision regarding a fine is final and non-appealable; that is, even if
24 Defendant is unhappy with a fine ordered by the Court, that will not be a basis for
25 Defendant to withdraw Defendant's guilty plea, withdraw from this Plea
26 Agreement, or appeal Defendant's conviction, sentence, or fine.

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28 //

13. Judicial Forfeiture

Defendant agrees to voluntarily forfeit and relinquish all right, title and interest he has in the following listed assets to the United States:

a Glock 22 Gen 4, .40 caliber semi-automatic pistol bearing serial number YDM037

Defendant acknowledges that the asset listed above is subject to forfeiture to the United States pursuant to 18 U.S.C. § 924(d)(1) and 28 U.S.C. § 2461(c), as property involved or used in the commission of the offense Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1), 924(a)(8), to which Defendant is pleading guilty.

Defendant agrees to take all steps as requested by the United States to pass clear title to the assets to the United States and to testify truthfully in any forfeiture proceeding. Defendant agrees to hold all law enforcement agents and the United States, its agents, and its employees harmless from any claims whatsoever arising in connection with the seizure, abandonment, or forfeiture of any asset covered by this agreement.

Defendant waives further notice of any federal, state or local proceedings involving the forfeiture of the seized assets the Defendant is agreeing to forfeit in this Plea Agreement.

Defendant further agrees to waive all constitutional and statutory challenges in any manner (including direct appeal, habeas corpus, or any other means) to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including that the forfeiture constitutes an excessive fine or punishment. Defendant knowingly and voluntarily waives his right to a jury trial on the forfeiture of the assets. Defendant waives oral pronouncement of forfeiture at the time of sentencing, and any defects that may pertain to the forfeiture.

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1 14. Mandatory Special Penalty Assessment

2 Defendant agrees to pay the \$100 mandatory special penalty assessment to
3 the Clerk of Court for the Eastern District of Washington, pursuant to 18 U.S.C.
4 § 3013.

5 15. Payments While Incarcerated

6 If Defendant lacks the financial resources to pay the monetary obligations
7 imposed by the Court, Defendant agrees to earn money toward these obligations by
8 participating in the Bureau of Prisons' Inmate Financial Responsibility Program.

9 16. Additional Violations of Law Can Void Plea Agreement

10 The United States and Defendant agree that the United States may, at its
11 option and upon written notice to the Defendant, withdraw from this Plea
12 Agreement or modify its sentencing recommendation if, prior to the imposition of
13 sentence, Defendant is charged with or convicted of any criminal offense or tests
14 positive for any controlled substance.

15 17. Waiver of Appeal Rights

16 Defendant understands that Defendant has a limited right to appeal or
17 challenge Defendant's conviction and the sentence imposed by the Court.

18 In return for the concessions that the United States has made in this Plea
19 Agreement, Defendant expressly waives all of Defendant's rights to appeal any
20 aspect of Defendant's conviction and/or the sentence the Court imposes, on any
21 grounds.

22 Defendant expressly waives Defendant's right to appeal any fine, term of
23 supervised release, or restitution order imposed by the Court.

24 Defendant expressly waives the right to file any post-conviction motion
25 attacking Defendant's conviction and sentence, including a motion pursuant to 28
26 U.S.C. § 2255, except one based on ineffective assistance of counsel arising from
27 information not now known by Defendant and which, in the exercise of due
28 diligence, Defendant could not know by the time the Court imposes sentence.

1 Nothing in this Plea Agreement shall preclude the United States from
2 opposing any post-conviction motion for a reduction of sentence or other attack
3 upon the conviction or sentence, including, but not limited to, writ of habeas
4 corpus proceedings brought pursuant to 28 U.S.C. § 2255.

5 18. Withdrawal or Vacatur of Defendant's Plea

6 Should Defendant successfully move to withdraw from this Plea Agreement
7 or should Defendant's conviction be set aside, vacated, reversed, or dismissed
8 under any circumstance, then:

- 9 a. Any obligations, commitments, or representations made by the
10 United States in this Plea Agreement shall become null and
11 void;
12 b. The United States may prosecute Defendant on all available
13 charges;
14 c. The United States may reinstate any counts that have been
15 dismissed, have been superseded by the filing of another
16 charging instrument, or were not charged because of this Plea
17 Agreement; and
18 d. The United States may file any new charges that would
19 otherwise be barred by this Plea Agreement.

20 The decision to pursue any or all of these options is solely in the discretion
21 of the United States Attorney's Office.

22 Defendant agrees to waive any objections, motions, and/or defenses
23 Defendant might have to the United States' decisions to seek, reinstate, or reinitiate
24 charges if a count of conviction is withdrawn, set aside, vacated, reversed, or
25 dismissed, including any claim alleging a violation of Double Jeopardy.

26 Defendant agrees not to raise any objections based on the passage of time,
27 including but not limited to alleged violations of any statutes of limitation or any
28

1 objections based on the Speedy Trial Act or the Speedy Trial Clause of the Sixth
2 Amendment.

3 19. Integration Clause

4 The United States and Defendant acknowledge that this document
5 constitutes the entire Plea Agreement between the United States and Defendant,
6 and no other promises, agreements, or conditions exist between the United States
7 and Defendant concerning the resolution of the case.

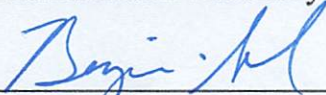
8 This Plea Agreement is binding only on the United States Attorney's Office
9 for the Eastern District of Washington, and cannot bind other federal, state, or local
10 authorities.

11 The United States and Defendant agree that this Agreement cannot be
12 modified except in a writing that is signed by the United States and Defendant.

13 Approvals and Signatures

14 Agreed and submitted on behalf of the United States Attorney's Office for
15 the Eastern District of Washington.

16 Vanessa R. Waldref
17 United States Attorney

18 

19 Benjamin D. Seal
20 Assistant United States Attorney

1-24-25
Date


21
22 I have read this Plea Agreement and I have carefully reviewed and discussed
23 every part of this Plea Agreement with my attorney. I understand the terms of this
24 Plea Agreement. I enter into this Plea Agreement knowingly, intelligently, and
25 voluntarily. I have consulted with my attorney about my rights, I understand those
26 rights, and I am satisfied with the representation of my attorney in this case. No
27 other promises or inducements have been made to me, other than those contained
28

1 in this Plea Agreement. No one has threatened or forced me in any way to enter
2 into this Plea Agreement. I agree to plead guilty because I am guilty.

3
4 
5 DAMIAN INIGUEZ
6 Defendant

11-5-24
Date

7 I have read the Plea Agreement and have discussed the contents of the
8 agreement with my client. The Plea Agreement accurately and completely sets
9 forth the entirety of the agreement between the parties. I concur in my client's
10 decision to plead guilty as set forth in the Plea Agreement. There is no legal
11 reason why the Court should not accept Defendant's guilty plea.

12 
13 Kenneth D. Therrien
14 Attorney for Defendant

11/5/24
Date

15
16 Interpreter Certification

17 I hereby certify that I have read and translated the entire foregoing document
18 to Defendant in a language with which Defendant is conversant. If questions have
19 arisen, I have notified Defendant's counsel of the questions and have not offered
20 nor given legal advice nor personal opinions.

21
22 Written Name:

Date